

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 08-402(DSD/JSM)

Steven E. Rousseau,

Plaintiff,

v.

ORDER

M.D. Jennifer Service
(SPRTC) Medical Director,

Defendant.

This matter is before the court upon plaintiff Steven E. Rousseau's objections to the report and recommendation of Magistrate Judge Janie S. Mayeron dated March 10, 2008. In her report, the magistrate judge recommended that plaintiff's application to proceed without prepayment of fees be denied and the action summarily dismissed.

The court reviews the report and recommendation of the magistrate judge de novo. 28 U.S.C. § 636(b)(1)(C). Plaintiff objects to the magistrate judge's conclusions that he failed to plead an Eighth Amendment violation and thus an actionable 42 U.S.C. § 1983 claim by attempting to submit an amended complaint. Even if liberally construing the amended complaint as an effort to address the report and recommendation, the court finds that plaintiff has failed to provide any legal authority to remedy the fatal flaws in his action. The magistrate judge's report and recommendation is well reasoned and correctly disposes of

plaintiff's motion and the case, and for these reasons, the court adopts the report and recommendation [Doc. No. 3] in its entirety.

Accordingly, **IT IS HEREBY ORDERED** that:

1. Plaintiff's action is summarily dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).

2. Plaintiff's application to proceed in forma pauperis [Doc. No. 2] is denied.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: April 3, 2008

s/David S. Doty
David S. Doty, Judge
United States District Court